

MINUTES OF REGULAR COUNCIL MEETING HELD NOVEMBER 1, 2004

A Regular Meeting of the Borough of Washington, Warren County, New Jersey was held in the second floor Council Chambers of the Borough Municipal Building at 8:00 P.M. on Monday, November 1, 2004.

Roll Call: McDonald, Doty, Bertoline, Van Deursen, Giaimis, Glaser and Housel (Arrived at 9 PM) – Present: 7.

Absent: Alan M. Fisher, Borough Manager
Robert Miller, C.M.E., Borough Engineer

Also Present: Richard P. Cushing, Esq., Municipal Attorney
Linda L. Hendershot, RMC/CMC, Borough Clerk

Mayor Van Deursen read the following Statement into the Record:

“The requirements of the ‘Open Public Meetings Law, 1972, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the official newspaper of the Borough of Washington and posted on the Bulletin Board of the Borough Hall stating the time, place and purpose of the meeting as required by law.”

Mayor Van Deursen led the group in the flag salute.

Mayor Van Deursen noted that Mr. Miller had a conflict with another meeting scheduled in Flemington and he was unable to be here this evening.

COUNCIL APPEARANCE:

Local Assistance Board – Barbara Theis, Welfare Director

Due to illness and surgery Barbara Theis, Welfare Director was unable to attend this evening.

MINUTES:

Regular Meeting – October 19, 2004

Mayor Van Deursen entertained additions or corrections to the minutes of the regularly scheduled meeting held October 19, 2004.

Councilwoman Bertoline noted that the Roll Call on Page 5 should be corrected to reflect that all Council persons voted in favor of Ordinance #18-2004. The Clerk so noted.

It was therefore moved by McDonald, seconded by Glaser that the minutes of the regular meeting held October 19, 2004 be approved as corrected.

Roll Call: Doty, Bertoline, McDonald, Van Deursen, Glaser and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

COMMUNICATIONS:

The following communications were entered into the Record:

1. NJ State League RE: Local Pay-to-Play;
2. NJ State League RE: Invitation to participate in a blood drive;
3. NJ State League RE: Affordable Housing Update;
4. NJ State League RE: Remedial Pay-to-Play Bills, Special Pay Plans and Contractor Registration Act;
5. State of NJ – RE: COAH;
6. Warren County Planning Department RE: Cross Acceptance;

7. R. Cushing, Esq., Re: Alternate Members of Municipal Zoning Boards of Adjustment;
8. Letter from R. Mayer Re: Telephone System;
9. NJ State League Re: Council on Local Mandates rules against Jamesburg and the League Concerning Animal Control Regulations;
10. Maxine Hunt RE: Parking on S. Lincoln Avenue; and
11. State of NJ – Department of Health Re: Influenza Vaccine Apportionment

Mayor Van Deursen entertained a motion to acknowledge, receive and file the communications as received.

It was moved by McDonald, seconded by Giaimis that the communications numbered #1 thru #11 be acknowledged, received and filed.

Discussion:

Councilwoman Bertoline addressed the COAH communications of which the attorney and Carl Hintz are responding to the COAH regulations.

Councilwoman Bertoline addressed Item #7 dealing with alternate members to the Zoning Board. Presently there are two alternates; this gives the governing body the power to appoint two additional alternates

Councilwoman Bertoline addressed Item #8 from Mr. Robert Mayer. She requested that he be given a response in writing regarding the new telephone system.

Item #10 will be entered into the record during the discussion regarding South Lincoln Avenue.

Ayes: 6, Nays: 0.

Motion carried.

AUDIENCE:

David Higgins, 113 Harding Drive reported to Council of a problem with his road – Harding Drive and the impact the ice and salt will have during inclement weather.

Kathy Unangst, 42 Victory Ave., Phillipsburg, NJ appeared before Council in regard to a zoning matter. She explained that she was an employee of the family business known as Stews Auto Body. Their business has been established in the community for fifty-one (51) years and she alleged that they were being grossly singled out by the Borough Zoning Officer. A letter was forwarded by Councilwoman Bertoline to the governing body.

Attorney Cushing explained the procedure by which a citizen can lodge a formal complaint against an employee. There is a process that Council must follow that allows fairness to both sides. If the employee is a member of the Union, the Union must also be notified. The attorney noted that there must be a balance out of the rights of both parties so that the interest of both sides are protected. There is always two sides to every story.

Mrs. Unangst could not understand how a reputable business that has been established in the Borough of Washington for fifty-one (51) years can be harassed and stalked by the Zoning Officer? No-one has followed up on any complaints that have been made. A letter earlier in the year from their attorney addressed the Zoning Officer and their complaints of stalking and harassment were raised at that time. Mrs. Unangst stated that the Borough should be trying to assist businesses rather than harass them.

Attorney Cushing noted that the employee who the complaint is being filed against has not been rice-noticed. The Council, as a whole, cannot follow up on this complaint this evening.

Councilwoman Bertoline noted that Council has a responsibility to help the citizens. She stated that people are not happy with the position not the decisions! In her opinion the Borough does not need this position.

Councilman McDonald did remember getting this letter and thought that the problem had been resolved at that time.

Councilman Giaimis noted that if citizens complaints have not been handled properly against an employee this should be a matter to be discussed in Executive Session.

Hearing no further audience remarks, it was moved by McDonald, seconded by Glaser that the audience portion of the meeting be closed.

Ayes: 6, Nays: 0.
Motion carried.

ORDINANCES:

Ordinance #13-2004 – Amending Chapter 78 of the Code Dealing with Swimming Pools (Tabled after the public hearing for the Attorney General's opinion)

Attorney Cushing commented on this ordinance and summarized the events leading up to receiving a reply from the attorney general's office and the difference of opinion with regard to regulating pools and fencing around pools. It appears that if the governing body want to regulate pools and fencing outside the State Code you may do so. It was suggested that a sub-committee be formed to look at other ordinances that may be available. The other issue that was raised was the question of regulating the smaller inflatable pools?

It was moved by Giaimis and seconded by McDonald that this topic be tabled until the next meeting for further discussion and the appointment of a sub-committee to further investigate this issue.

Ayes: 6, Nays: 0.
Motion carried.

Ordinance #19-2004 – Amending Article II, Section 3-7 of Chapter 3 of the Code
(First Reading)

An ordinance amending Article II, Section 3-7 of Chapter 3 of the Code was introduced by Councilman McDonald.

It was further moved by McDonald, seconded by Giaimis that the Clerk read Ordinance #19-2004 by title only.

Roll Call: Giaimis, Glaser, Van Derusen, Doty and McDonald – Ayes: 5,
Nays: Bertoline. Motion carried.

The Clerk read Ordinance #19-2004 entitled, "AN ORDINANCE AMENDING ARTICLE II, SECTION 3-7 OF CHAPTER 3 OF THE CODE OF THE BOROUGH OF WASHINGTON."

Council Discussion:

Attorney Cushing explained that this amendment was necessary as a result of the referendum question at which time the citizens approved the election of the Mayor directly by the voters of the municipality.

Hearing no further discussion, it was moved by Giaimis, seconded by McDonald that Ordinance #19-2004 be approved on first reading.

Roll Call: Giaimis, Glaser, Van Deursen, Doty, Bertoline and McDonald.

Ayes: 6, Nays: 0.
Motion carried.

It was further moved by McDonald, seconded by Giaimis that Ordinance #19-2004 be published in the Star Gazette on November 11, 2004 and that the public hearing be scheduled for December 7, 2004.

Roll Call: McDonald, Bertoline, Doty, Van Duersen, Giaimis and Glaser.

Ayes: 6, Nays: 0.
Motion carried.

Ordinance #20-2004 – Amending Section 94-18 Sub-section A (1) To obligate tenants to obtain zoning permits (First Reading)

An ordinance amending Chapter 94 of the Land Use Ordinance to obligate tenants to obtain zoning permits was introduced by Councilman McDonald.

It was moved by McDonald, seconded by Glaser that the Clerk read Ordinance #20-2004 by title only.

Roll Call: McDonald, Doty, Van Deursen, Glaser and Giaimis –
Ayes: 6, Nays: Bertoline. Motion carried.

The Clerk read Ordinance #20-2004 entitled, “AN ORDINANCE TO AMEND SECTION 94-18, SUBSECTION A (1) TO OBLIGATE TENANTS TO OBTAIN ZONING PERMITS.”

Council Discussion:

Councilman Giaimis noted that this ordinance was based on discussions from the last council meeting.

Councilwoman Bertoline was still against the implementation of this ordinance. It was her opinion that Council did not need any more regulations. The property owners of the property should be responsible for any zoning violations. This is just another vehicle for finding the mechanism for more people to be fined.

Councilman Giaimis questioned if anything new has happened that the Council should be apprised of?

Attorney Cushing explained the need of why this ordinance should be implemented. There was a recent court case where the tenant and not the property owner was clearly responsible for the zoning violation. This would give the zoning officer another avenue to make a determination as to who is the responsible party for the zoning violation. The judge read the ordinance and noted that only the property owner can be cited. This ordinance is needed for the zoning officer to use his discretion as to which party should be cited or both.

Councilman Doty noted that the ordinance should be pursued.

It was therefore moved by Giaimis, seconded by Glaser that Ordinance #20-2004 be approved on first reading.

Roll Call: McDonald, Doty, Van Deursen, Glaser and Giaimis – Ayes: 5,
Nays: Bertoline.

Motion carried.

It was further moved by McDonald, seconded by Glaser that Ordinance #20-2004 be published in the Star Gazette on November 11, 2004 and that the public hearing be scheduled for December 7, 2004.

Roll Call: Giaimis, Van Deursen, Glaser, McDonald and Doty – Ayes: 5,
Nays: Bertoline.

Motion carried.

REPORTS:

It was moved by McDonald, seconded by Giaimis that the Road Department O.T., Zoning/Code Enforcement, Borough Clerk's and WWTP – Veolia Water reports be accepted as submitted and filed.

Ayes: 6, Nays: 0.
Motion carried.

VOUCHERS:

Mayor Van Deursen entertained questions or additions to the vouchers and claims for payment.

Councilman Bertoline referred to Page 7 and noted that she would still like to see consolidation of the telephone services for the fire department and police department cell phones. Reference was also made to Page 12 and the payment of \$ 18,275.00 for the new telephone system. It was her understanding that there was still bugs in the system? Councilwoman Bertoline also questioned the legality of taping incoming calls?

The Clerk responded to Councilwoman Bertoline's questions and reported that to her knowledge the employees were all pleased with the system and there was no problems that she was made aware of. The menu clearly states that calls can be taped and monitored.

Hearing no further questions of the claims list it was moved by McDonald, seconded by Bertoline that the vouchers be approved for payment in the amount of \$1,434,048.55 and the handwritten vouchers for September in the amount of \$189,202.95.

Roll Call: Giaimis, Glaser, Van Deursen, Doty, Bertoline and McDonald.

Ayes: 6, Nays: 0.
Motion carried.

OLD BUSINESS:

Mayor Van Deursen deviated from the order of business to discuss the S. Lincoln Avenue parking report submitted by the engineer. Council concurred.

Councilwoman Bertoline suggested that perhaps another avenue could be investigated by the engineer. She had called his office but he did not get back to her in time for this meeting.

She suggested that S. Lincoln Avenue could perhaps be changed to a way one street with parking permitted on one side of the street to accommodate a lot of residents on this street that do not have any off-street parking at all.

Councilwoman Glaser noted that the residents have been notified and the prudent thing to do at this point in time is to erect the signs for enforcement. Councilwoman Glaser noted that any change in the ordinance would require certification from the engineer.

Teresa Hackett, 149 S. Lincoln Avenue was opposed to “No Parking” on the street but would be in favor of the street being made one way from Rt. 31 down to Rt. 57. She did not feel that the residents were afforded enough notification.

Walter Winchurch, S. Lincoln Avenue noted that cars parked on the street is the only time they do slow down, otherwise the roadway is an open thoroughfare for speeding. He also questioned where the residents would park or where their company would park. He opposed “No Parking” being implemented. He was not opposed to the one way street being investigated.

Paul Doerang, 77 S. Lincoln Avenue noted from a practical concern it would encourage more speeding on the street making it more dangerous for the children in particular. He was opposed to the “No Parking” on both sides but would endorse the one way street being investigated by the engineer.

Ray Little, 82 S. Lincoln Avenue was opposed to “No Parking” on the street. He has four small children that are involved in a lot of school activities which would present a real hardship for him with no parking on street and it would only encourage more speeders to use the street as a racetrack. Most importantly, taking away all their parking would also have an impact on the property value to their homes.

Tom Mason, Harding Drive thanked the Council for prior notification to the residents; this was a good thing. He also felt that the suggestion of making this street one way as an alternative should be explored. The speeding will definitely increase if parking is restricted. Another suggestion he had was to prohibit people from making a left hand turn by the railroad tracks off Broad Street to use S. Lincoln Avenue. He also suggested a mobile speedometer light sign be placed on the street as this a #1 problem.

Councilman Giannis had suggested pursuing the joint purchase of this piece of equipment with neighboring communities.

Dawn Higgins, 113 Harding Drive made the suggestion or posed the question as to whether the ordinance could be suspended until it is further investigated. Councilwoman Glaser noted that there must be a certification on all streets from the engineer. The signs must be posted before enforcement can take place.

Tracy Newlander, McKinley Avenue questioned how costly it would be to have this suggestion of a one way street investigated?

Councilman Housel arrived and took his seat at 9 PM.

It was noted by the Mayor that there is fifty-two (52) streets in the ordinance that require signage and a lot of these streets some residents do not have off-street parking.

Councilwoman Glaser also noted she would like to know what it would entail for investigating the idea of a one way street on S. Lincoln Avenue?

Mayor Van Deursen read a letter from Maxine Hunt, 63 S. Lincoln Avenue who was also opposed to “No Parking” on S. Lincoln Ave. She cited several other problems such as the truck traffic, speeding and no enforcement of cars parked on the street all night without parking stickers.

A motion was made by McDonald, seconded by Giaimis that the Clerk direct a memo to the engineer, police chief, and emergency services to request the review and recommendation of making S. Lincoln Avenue a one way street and that further the signs not be posted until Council has this report.

Discussion:

Councilwoman Glaser noted that Council will have to go through the engineer's certification for this change.

Roll Call: Giaimis, Housel, Van Deursen, Bertoline and McDonald.
Ayes: 5, Nays: Glaser – Abstained: Doty.

Motion carried.

Dawn Higgins questioned the legality of what the Council just did? She directed her question at Attorney Cushing and stated that he permitted the Council to break the law based on what determination was made in regard to the "No Parking" signs being posted on Harding Drive. Attorney Cushing noted that this particular case requires more input prior to Council making a decision. More factual information and alternatives seem to be warranted.

Councilwoman Bertoline noted that there appears to be another remedy that can be explored with reference to this street. There were no other alternatives available with respect to Harding Drive.

Dawn Higgins noted that there was no problem on their street?

Councilwoman Glaser noted that Council cannot be selective.

Attorney Cushing noted that Council could vote to repeal the ordinance, leave it in place or make S. Lincoln Avenue a one way street.

Councilwoman Glaser questioned the fact that Council just can't repeal these ordinances? The correspondence from the engineer was a report, not a certification.

Dawn Higgins noted that the signage of the streets in her neighborhood has just opened up a can of worms. Doing it piece meal is not the answer; there has got to be a better solution to this issue? Her suggestion was to leave well enough alone and repeal the ordinances.

Andrew Turner addressed the certification issue and noted that many of the streets are old. The engineer could be questioned on the validity of applying the street standards to these streets given their age.

Mayor Van Deursen noted that this issue should be one of Council's goals next year as a high priority.

A motion was made by Glaser, seconded by Giaimis that Council take a short recess at 9:40 PM.

Ayes: 7, Nays: 0.
Motion carried.

Council reconvened with everyone present at 9:55 PM.

NEW BUSINESS:

Jack Van Cleave, 1548 Millstone River Rd., Hillsboro, NJ – Rt. 31 – Presentation for possible residential use

Mr. VanCleave introduced himself and presented Council with a proposal and plans for the Serelis property on Rt. 31.

His plans call for low and moderate senior housing, age restricted 55 years of age or older. The units would be one bedroom, twenty-seven (27) units to a building, with the building being three stories high with gable roofs. A wellness center is proposed with a pool and spa.

Mr. Van Cleave was originally proposing rentals but after conferring with Jim Sheldon, Executive Director of Business Improvement District the proposal may be an ownership mix with perhaps some rentals. He is receptive and open to any ideas the governing body may wish to explore. The low and moderate income properties would also contribute to our low and moderate income needs for COAH.

Council discussion followed at which time the attorney recommended that the next logical stop for this project would be the Planning Board to request a zoning change of this property. The Council did state that it would be a viable project for the community.

Discussion – Interim Manager

Discussion took place with respect to an Interim Manager given Mr. Fisher's services were terminated as Manager, effective October 31st. Mayor Van Deursen asked a question of the four Council people that would not agree to extend the Manager's tenure until such time as a new Manager is hired. She asked what they planned to do at this point when there are no funds for an Interim Manager. Council has already agreed to hiring a new Manager. It has also been agreed that if a new Manager is hired this year an emergency appropriation would be approved for the position. Why bring in an Interim Manager when Council is moving along in the process to bring in a new Manager? Why not continue to have Mr. Fisher here until such time as we have a new Manager in place or the end of the year?

Councilwoman Bertoline noted that no one has actually said that they would appropriate funds for a new Manager this year? She stated that we need someone else in the office and do not need any more monkey wrenches thrown into the process.

Mayor Van Deursen stated that it is in the Borough best interest that we find the right person to fill that office. Once Council has identified the right person she would be willing to fund an emergency appropriation for the remainder of the year. It is also in the Borough's best interest to keep Mr. Fisher here. She further stated that she will not support an interim manager or appropriate additional funds.

A motion was made by Glaser, seconded by Housel that Mr. Fisher be allowed to stay until December 31st or until a new Manager is hired, whichever comes first.

Discussion: Councilman McDonald questioned why there was no budget numbers made available to them for transfer of funds? He also suggested that an Interim Manager would be more appropriate. Someone could perhaps be brought in from Patriot Consulting.

Mayor Van Deursen noted that an Interim Manager would have a lot of blank time trying to familiarize himself with the general running of the Borough and there also would be evidence of staff problems due to the emotional and psychological strain the employees are under. The Mayor further stated that five (5) votes are required for both the emergency appropriation and the transfer of funds. They do not have the votes to hire an Interim Manager.

Councilwoman Bertoline noted that there was an additional amount of \$ 70,000.00 showing in the budget that was brought in as a result of added assessments.

Mayor Van Deursen stated that she could not justify an additional expense to the taxpayers. It is not appropriate when we are paying Mr. Fisher up until the end of the year.

Councilman Housel also noted that the taxpayers will be faced with an additional increase in taxes as a result of the termination package of \$ 56,000.00. Add an additional twenty (20%) percent on the Manager's salary and the new Council will have a budget appropriation of approximately \$ 100,000.00. Then there are still two unions of which no settlement has been reached.

Mayor Van Deursen called for the vote:

Roll Call: Housel, Glaser and Van Deursen – Ayes: 3.
Giaimis, McDonald, Bertoline and Doty – Nays: 4.

Motion Defeated.

Discussion ensued.

Councilman Giaimis stated that it was in the best interest of the Borough if Mr. Fisher was not here.

Mayor Van Deursen restated her position with the way in which the Manager was terminated and stated that he was seriously looking for a new position. It is in the best interest of the Borough that Mr. Fisher seek another position given the conditions under which he is working. He should have been allowed to stay until he found a position or until a new Manager is hired. If this Council comes up with a candidate that they want to hire she would have no other alternative than to support them.

Councilwoman Bertoline stated that it was her opinion that the whole process was dragged out. If the Manager would have agreed to sign an agreement that he would definitely move on and would agree not to accept employment in the future with Washington Borough it would have moved mountains with her.

Councilwoman Glaser noted that her original motion was only until December 31st or until he found suitable employment.

Mayor Van Deursen noted she never agreed to the action taken in terminating the Manager. Once the agreement was signed she felt it prudent and fiscally responsible to keep Mr. Fisher on.
full or part-time until we hire a new Manager. At no time was there any mention of extending him beyond December 31st.

Councilman Giaimis questioned whether there was going to be a new Manager at the beginning of the year?

Councilwoman Glaser noted that the search has been successful and ongoing and at no time did she want any member of Council to believe that this was a ploy to keep the present Manager on.

Councilwoman Bertoline noted that it has been five months and the Manager has not found a job.

Councilwoman Glaser reiterated that she would not approve a transfer of funds for an Interim Manager.

Councilwoman Bertoline suggested that we could perhaps pay someone next year.

Mayor Van Deursen noted that we must be fiscally responsible; we are already paying the Manager \$ 56,000.00 that will be budgeted next year. We will be bankrupting a new Council.

Councilman Housel also noted that if we do not have a Manager we could be brought into court.

Dawn Higgins stated that this Council has to do what is best for the town. You are not working together. She questioned why they all did not take responsibility for seeing that budget transfers were made available to them?

Council discussion ensued and everyone was at a stale mate.

Attorney Cushing urged Council to come to some sort of compromise. He stated that he did hear a commitment from Councilwoman Glaser that Mr. Fisher will not be here after January 1st?

Councilwoman Glaser noted that she would think that December 15th could be a good compromise given the way things are going with the search.

Council discussed the hours that would be required if they extended the Manager's tenure until December 15th. Part-time seemed to be the consensus or twenty (20) hours.

A motion was made by Glaser, seconded by Housel that we extend Mr. Fisher's tenure as Manager until we hire a new Manager or December 15th whichever comes first, with Mr. Fisher working part-time for the Borough twenty (20) hours a week.

Discussion: Councilman Housel stated that it was ridiculous that Mr. Fisher cannot work full-time when he is getting paid his full time salary. If this is the only compromise Council is willing to concede to he will agree to it.

Councilman Giaimis noted that we have no one to act as an Interim Manager.

Councilwoman Glaser stated that December 15th is part of the offer and she would vote to transfer funds or fund an emergency appropriation for an Interim Manager until such time as a new Manager is in place.

Roll Call: Housel, Glaser, Giaimis and Van Deursen - Ayes: 4,
Doty and Bertoline – Nays: 2.

Motion carried.

** Councilman McDonald left during the discussion at approximately 10:30 PM for work.

Mayor Van Deursen thanked Councilman Giaimis for compromising. She knew that it was a difficult decision for him to make.

Councilman Housel commended Councilman Giaimis and stated that he was doing what was in the best interest of the Borough and it was a reasonable compromise.

Draft Tree Removal Ordinance

The draft tree removal ordinance was received from the Planning Board. The attorney had some concerns with the intent of the ordinance and will discuss them with the planner, Carl Hintz and bring it back to the Council with his recommendations.

R. Miller, C.M.E., RE: Award of Downtown Drainage Improvements

During this discussion the Clerk advised that the tape recorder was out of tape. Attorney Cushing suggested that a motion be entertained to continue the meeting without a tape of the proceedings.

A motion was made by Glaser, seconded by Housel that the rest of the meeting could proceed without a tape of the deliberations.

Ayes: 6, Nays: 0.
Motion carried.

A letter was received from Robert Miller, engineer recommending that the bid for the downtown drainage project be awarded to Penn-Bower, Inc. in the amount of \$ 72,310.50.

A memorandum was received from the Manager advising that there are insufficient funds in the capital account to award this contract. The Manager noted that a supplemental appropriation ordinance with a capital budget amendment will have to be prepared in order to award. The contract should be contacted to request that he hold the bid price until the supplemental funding is available.

A motion was made that the Manager contact Penn-Bower, Inc. to hold their bid price for ninety (90) days at which time the new Manager will prepare the necessary ordinance for the supplemental appropriation to complete the funding for this project.

Roll Call: Giaimis, Housel, Glaser, Van Deursen, Bertoline and Doty.

Ayes: 6, Nays: 0.
Motion carried.

Resolutions #195-2004 thru #201-2004

It was moved by Housel, seconded by Giaimis that the following Resolutions be adopted:

RESOLUTION #195-2004

**A RESOLUTION AUTHORIZING THE REFUNDING OF
AN OVERPAYMENT OF THE BOROUGH'S
SEWER SERVICE CHARGE**

WHEREAS, according to the Treasurer's records, there is an overpayment showing on the following property; and

<u>BLOCK/LOT</u>	<u>PROPERTY OWNER/ PROPERTY LOCATION</u>	<u>AMOUNT TO BE REFUNDED</u>
53/3	Unangst, Gretchen & Milton 8 Gibson Place	\$ 43.00

The former owner made an overpayment during the closing procedures on the above property location. A refund of \$ 43.00 should be mailed to:

Gretchen & Milton Unangst
9 Old Forge Road
Oxford, NJ 07863

WHEREAS, the Borough Treasurer's office has received a written request that the above amount be refunded.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to refund the above overpayment amount.

Roll Call: Bertoline, Doty, Van Deursen, Housel, Glaser and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

RESOLUTION #196-2004

RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE
AS PER N.J.S.A. 54:5

KNOW ALL MEN BY THESE PRESENCE, THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 24, 2004 to Data Ventures Investment Co., 3 Grove Farm Road, Pittstown, NJ 08867 in the amount of \$ 3,623.20 for taxes or other municipal liens assessed for the year of 2003 and in the name of Glen Manor Construction, Ltd as supposed owners, and in said assessment and sale were described as 10 Myrtle Avenue, Block 044, Lot 034, which salve was evidenced by Certificate #382-03, dated and recorded in the office of the County Clerk.

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 10-27-2004 and before the right to redeem was cut off, as provided by law, Attorney Kevin Benbrook, claiming to have an interest in said lands, did redeem said lands claimed by Data Ventures Investment Co., and last above mentioned, by paying to the Collector of Taxes of said taxing district of Washington Borough the amount of \$ 16,921,99, which is the amount necessary to redeem Tax Sale Certificate #382-03.

NOW, THEREFORE, on this 1st day of November, 2004 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Data Ventures Investment Co., 3 Grove Farm Road, Pittstown, NJ 08867.

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 044, Lot 034 from the tax office records.

Roll Call: Giaimis, Housel, Glaser, Van Deursen, Bertoline and Doty.

Ayes: 6, Nays: 0.
Motion carried.

RESOLUTION #197-2004

A RESOLUTION TO REFUND OVERPAYMENT ON
2004 REAL ESTATE TAXES

WHEREAS, according to the Tax Collector's records, there is an overpayment of \$ 2,150.82 on 2004 Regular Taxes paid on property located at 4 Ridgetop Terrace, also known as Block 040, Lot 004 and in the name of Jannarone, Philip and Victoria; and

WHEREAS, both the title company for the Jannarones and the Jannarone's mortgage company paid the 4th 2004 Regular Taxes thus causing an overpayment.

WHEREAS, the Tax Collector's office has received a request from Principal Residential Mortgage, Inc. to refund the overpayment to the mortgage company.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector and Treasurer to refund the amount of \$ 2,510.82 and payable to:

Principal Residential Mortgage, Inc.
Attn.: Claims Department
Loan #8141622-4
711 High Street
Des Moines, IA 50392-0750

Roll Call: Giaimis, Doty, Bertoline, Van Deursen, Housel and Glaser.

Ayes: 6, Nays: 0.
Motion carried.

RESOLUTION #198-2004

**A RESOLUTION AUTHORIZING THE REFUNDING OF
AN OVERPAYMENT OF THE BOROUGH'S
SEWER SERVICE CHARGE**

WHEREAS, according to the Treasurer's records, there is an overpayment showing on the following property; and

<u>BLOCK/LOT</u>	<u>PROPERTY OWNER/ PROPERTY LOCATION</u>	<u>AMOUNT TO BE REFUNDED</u>
11.01/4	S.A.K. Associates, LLC 124 West Washington Ave.	\$ 150.50

The former owner made an overpayment during the closing procedures on the above property location. A refund of \$ 150.50 should be mailed to:

S.A.K. Associates, LLC
C/o Sarwin S. Kahlam
6 Nathatch Court
Hackettstown, NJ 07840

WHEREAS, the Borough Treasurer's office has received a written request that the above amount be refunded.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to refund the above overpayment amount.

Roll Call: Doty, Van Deursen, Housel, Glaser, Bertoline and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

RESOLUTION #199-2004

**A RESOLUTION TO REFUND OVERPAYMENT ON
2004 REAL ESTATE TAXES**

WHEREAS, according to the Tax Collector's records, there is an overpayment of \$ 1,050.04 on 2004 Regular Taxes paid on property located at 64 Lenape Trail, also known as Bock 101, Lot 015.10 and in the name of Sutton, Dolson III & Tina; and

WHEREAS, the Sutton's mortgage company paid the 3rd 2004 Regular Tax twice causing and overpayment; and

WHEREAS, the Tax Collector's office has received a request from Land America/Fremont Investment and Loan to refund the overpayment to the property owner.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector and Treasurer to refund the amount of \$ 1,050.04 and payable to:

Dolton III & Tina Sutton
64 Lenape Trail
Washington, NJ 07882

Roll Call: Bertoline, Doty, Van Deursen, Glaser, Housel and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

RESOLUTION #200-2004

**A RESOLUTION TO REFUND PAYMENT OF 2004
REAL ESTATE TAXES DUE TO EXEMPT STATUS**

WHEREAS, according to the Tax Collector's records there are payments made by Arc of Warren County in the amount of \$ 7,197.76 on both the 1st and 2nd Quarter 2004 Regular Taxes on property located at 319 W. Washington Avenue, also known as Block 101, Lot 006.01 and assessed in the name of The Arc, Warren County Chapter, Inc., and

WHEREAS, the property owner has qualified for Exempt Status in the year 2004, which has created an overbill on the 2004 Taxes and the need to refund the payments made on the first two tax quarters of 2004 to The Arc of Warren County.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector to refund the amount of \$ 14,395.52 payable to:

The ARC, Warren County Chapter, Inc.
319 W. Washington Ave.
Washington, NJ 07882

Roll Call: Giaimis, Glaser, Doty, Van Deursen, Housel and Bertoline.

Ayes: 6, Nays: 0.
Motion carried.

RESOLUTION #201-2004

A RESOLUTION TO VOID A CHECK

WHEREAS, Check #045859 was written October 6, 2004 on Washington Borough's Operating Fund #810260230 in the amount of \$ 45.00 and payable to Tax Collectors & Treasurers Association Sussex & Warren; and

WHEREAS, the Treasurer's office was informed that the invoice from this vendor was already paid. A replacement check is not necessary.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington that the Treasurer be authorized to void check #045859.

Roll Call: Doty, Bertoline, Housel, Giaimis, Glaser and Van Deursen,

Ayes: 6, Nays: 0.
Motion carried.

Resolution #202-2004 – Requesting Extended Second Round Substantive Certification

The following Resolution was moved by Bertoline, seconded by Giaimis and adopted:

RESOLUTION #202-2004

RESOLUTION REQUESTING EXTENDED SECOND ROUND SUBSTANTIVE CERTIFICATION

WHEREAS, the Borough of Washington received substantive certification from the New Jersey Council on Affordable Housing (COAH) on June 7, 1995 for a period of six years, and this substantive certification has expired on June 7, 2001; and

WHEREAS, COAH adopted rules that permitted municipalities to request an extension of substantive certification upon filing a resolution committing to continue the implementation of second round plans and committing to petition for certification of a third-round plan within one year of the effective date of COAH's third-round rules; and

WHEREAS, the Borough of Washington adopted said resolution on February 6, 2001 and COAH granted an extension to the Borough's substantive certification on March 7, 2001 pursuant to rules that were previously adopted by COAH; and

WHEREAS, the Appellate Division of the New Jersey Superior Court rules on August 31, 2004 that while COAH has the authority to extend substantive certification, the process used to do so must be revised to include public notice and principal review of municipal compliance; and

WHEREAS, pursuant to the appellate Division order of August 31, 2004, COAH has adopted an emergency rule at N.J.A.C. 5:91-14.3 permitting the extension of a municipality's second round substantive certification for up t one year after the effective date of the adoption of COAH's third round methodology and rules; and

WHEREAS, N.J.A.C. 5:91-14.3 requires the Borough of Washington to request an extension by motion pursuant to N.J.A.C. 5:91-12 and to provide public notice thereof; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Borough of Washington to provide a copy of its adopted current Housing Element and Fair Share Plan; and

WHEREAS, to be eligible for an extended grant of substantive certification, N.J.A.C. 5:91-14.3 requires the Borough of Washington to commit to continue to implement the certified second round plan; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Borough of Washington to commit to either file a adopted Housing Element and Fair Share Plan addressing the third round obligation with COAH within one year of the effective date of COAH's third round rules and methodology, currently proposed as N.J.A.C. 5:94-1 et seq. and N.J.A.C. 5:95-1 et. seq., or petition for a third round substantive certification prior to the expiration of the extended second round substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Borough of Washington to provide a proposed schedule for the submission of the filing or petition for the third round substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Borough of Washington to provide a statement describing the process of the municipality's compliance with the terms of its 1987-1999 substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Borough of Washington to provide, and update as necessary, its current monitoring report and development fee monitoring report.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Washington, in the County of Warren, State of New Jersey, that the Borough requests COAH, under its procedure at N.J.A.C. 5:91-14.3 to extend substantive certification for up to one year after the effective date of the adoption of COAH's third round methodology and rules; and

BE IT FURTHER RESOLVED, that the Borough of Washington hereby commits to continue to implement its certified second round plan and has attached hereto a statement describing the progress of the Borough's compliance with the terms of its second round certification; and

BE IT FURTHER RESOLVED, that the Borough of Washington shall leave all ordinances implementing its original substantive certification, true copies of which are attached hereto, effect for the extended substantive certification, unless it can be demonstrated that there is good cause why the ordinances should not remain in effect; and

BE IT FURTHER RESOLVED, that the Borough of Washington hereby commits to address its third round fair share obligation by petitioning COAH for review and certification of a newly adopted Housing Element and Fair Share Plan within one year after the effective date of COAH's third round methodology and rules; and

BE IT FURTHER RESOLVED, that the Borough of Washington commits to submitting a newly adopted Housing Element and Fair Share Plan to address its third round obligation by (date), 2005 according to the schedule attached hereto; and

BE IT FURTHER RESOLVED, the Borough of Washington's updated monitoring report and development fee monitoring reports, true copies of which are attached hereto, have been forwarded to COAH for review; and

BE IT FURTHER RESOLVED, that the Borough of Washington shall either file the newly adopted Housing Element and Fair Share Plan addressing the third round obligation with COAH or petition for a third round substantive certification prior to the expiration of the extended second round substantive certification that has been requested.

Roll Call: Giaimis, Housel, Glaser, Van Deursen, Bertoline and Doty.

Ayes: 6, Nays: 0.

Motion carried.

COUNCIL REMARKS:

Mayor Van Deursen thanked Councilman Doty for his service as Council person to the Borough of Washington and noted that she still looked forward to working with him as Chairman of the Shade Tree Commission.

She also extended her good wishes in the upcoming election to Mr. Andrew Turner as well as all the other candidates running.

The Mayor noted that she looked forward to working with a new governing body after the results of the election.

Councilman Giaimis wished Councilman Doty the best of luck and all of candidates running for election.

Councilman Housel also wished Councilman Doty the best of luck and good luck to everyone running in the election tomorrow.

Councilman Glaser also wished Councilman Doty good luck and thanked him for his service to the community. She looked forward to working with him in other capacities. Also, best of luck to the candidates tomorrow.

Councilwoman Bertoline stated that it has been a pleasure serving with Councilman Doty. He was a great person. She noted that she thought Council would miss Councilman's Doty's valuable input as a Council person.

She also wished the candidates good luck in the election the next day.

Councilman Doty extended his thanks to the Council for allowing him to serve and the public for their support. He also wished everyone the best of luck the next day.

Councilwoman Bertoline brought up had requested that the action taken by Mr. Bescherer with regard to Stew's Auto Body be discussed. Attorney Cushing noted that Mr. Bescherer had not been served with a Rice Notice for discussion in Executive Session.

In the Council's agenda packet there was a policy adopted by resolution that outlines the process to file a complaint against a Borough employee. It is not necessary that an Executive Session be scheduled to discuss this issue.

Councilman Giaimis also noted that there has been a summons issued in reference to this and therefore it is a judicial matter.

Councilwoman Bertoline noted that there is several issues that are related to this matter that are unrelated to the summons. She stated that the Council has not been kept informed of this issue.

A motion was made by Bertoline, seconded by Glaser that this issue concerning Miss Unangst's complaint be tabled until a new Manager is hired for him to investigate.

Roll Call: Giaimis, Housel, Glaser, Van Deursen, Bertoline and Doty.

Ayes: 6, Nays: 0.
Motion carried.

Hearing no further business to come before Council, it was moved by Housel, seconded by Bertoline that the meeting be adjourned at 11:30 PM.

Ayes: 6, Nays: 0.
Motion carried.

Marianne Van Deursen, Mayor

Linda L. Hendershot, RMC/CMC
Borough Clerk